

**Zoning By-law of the Town of Egremont  
BERKSHIRE COUNTY, MASSACHUSETTS**

*Draft #3  
October 8, 2003*

New sections or provisions are in *italics*.

**SECTION 1.0: TITLE, AUTHORITY AND PURPOSE**

**1.1 TITLE.** This By-Law shall be known as the “Zoning By-Law of the Town of Egremont, Massachusetts.” hereinafter referred to as “this By-Law.”

**1.2 AUTHORITY.** This Zoning By-Law is authorized by the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

**1.3 PURPOSE.** The purpose of this By-Law is to promote the public health, safety and welfare, including but not limited to the following objectives:

1. To prevent overcrowding of land, to secure safety from fire, flood, panic and other dangers, to conserve health, and to lessen congestion on the roads;
2. To facilitate the adequate provision of transportation, water supply, drainage, sewage, schools, parks, open space and other public requirements;
3. To conserve the value of land and buildings including the conservation of natural resources and the prevention of blight and pollution of the environment;
4. To preserve and increase amenities by the promulgation of regulations designed to:
  - a. protect the Town’s areas of scenic beauty, its brooks, ponds, wetlands and water resources, and other significant environmental features;
  - b. minimize the adverse effects of development on natural resources and municipal facilities;
  - c. employ cooperatively the various measures taken by the Town’s agencies, under diverse legislative authority, including the State Sanitary Code, Wetlands Protection Act, Subdivision Control Law, and the State Building Code, for the preservation of the Town’s existing rural character, open spaces, low density of population, and in the interests of the Town’s orderly growth at deliberate pace.
  - d. To achieve any other purpose suggested in Section 2A of 1975 Mass. Acts 808.

**1.4 SCOPE.** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town of Egremont are regulated as hereinafter provided.

**1.5 APPLICABILITY.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town of Egremont, shall be in conformity with the provisions of the Zoning By-Law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this Zoning By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Zoning By-Law shall control.

**1.6 AMENDMENTS.** This Zoning By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

**1.7 SEPARABILITY.** The invalidity of any section or provision of this Zoning By-Law shall not invalidate any other section or provision herein.

## SECTION 2.0 DEFINITIONS

In this by-law, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the by-law. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word “shall” is mandatory and “may” is permissive or discretionary. The word “and” includes “or” unless the contrary is evident from the text. The word “includes” or “including” shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word “lot” includes “plot”; the word “used” or “occupied” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied”. The words “building,” “structure,” “lot,” or “parcel,” shall be construed as being followed by the words “or any portion thereof.” The word “person” includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this by-law.

**ACCESSORY USE OR STRUCTURE (old):** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**ACCESSORY BUILDING (new):** *A subordinate building located on the same lot as the main, or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.*

**ACCESSORY USE (new):** *A use customarily incidental and subordinate to that of the main or principal building or use of the land.*

**AGRICULTURAL USE, EXEMPT:** Agriculture, horticulture, silviculture, floriculture, or viticulture as a primary use of property on a parcel of more than five acres, exempt pursuant to G.L. c. 40A, s. 3.

**BED AND BREAKFAST ESTABLISHMENT:** *Accommodations with not more than \_\_\_\_ bedrooms occupied by bed and breakfast guests in which the owner of the establishment resides. Bed and breakfasts are intended for guests on intermittent visits, and shall not be used as long-term rental units or apartments. In such event, the residents shall be considered as boarders. All parking for residents and guests shall be off-street.*

**BUILDABLE LAND** shall mean contiguous land which has a slope of fifteen (15) percent or less, which is not in wetlands as defined in 310 CMR 10.00, the Wetlands Protection Act, and which is not land designated as a site governed by G.L. c. 21E, the Hazardous Material Release Prevention and Response Act.

**BUILDING HEIGHT:** *The vertical distance from the grade to the highest point of the roof. When a building faces more than one street, the height shall be measured from the average of the grade at the center line of each street front. Not included are spires, cupolas, antennae, or similar parts of structures which do not enclose potentially habitable floor space.*

**BUILDING, PRINCIPAL:** *A building in which is conducted the main or principal use of the lot on which said building is situated.*

*CONTOUR: Refers to the contour lines on the Egremont and Bash Bish Falls Quadrangle maps of the United States Department of the Interior Geological Service, 1973 and 1958 respectively.*

**DWELLING, SINGLE FAMILY :** A detached residential building containing one (1) dwelling unit and occupied by one (1) family only, but not including mobile homes whether placed on a foundation or not.

**DWELLING, TWO FAMILY :** A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

*DWELLING, MULTI-FAMILY : A residential building with three (3) dwelling units, but not more than four (4) dwelling units.*

*EASEMENT OR RIGHT OF WAY: A right acquired by a public authority or person or entity for use or control of property for utilities, travel, or other designated public or private purpose.*

**FAMILY :** One (1) or more individuals related by blood, marriage or adoption, or not more than five (5) individuals who are not so related, living in a single dwelling unit on a regular residential basis.

*FARM: An agricultural use of land on a parcel of less than five acres, not exempt pursuant to G.L. c. 40A, s. 3. See "Agricultural Use, exempt," above.*

**FRONTAGE (old):** The continuous distance along the street line, which provides direct access to the lot.

*FRONTAGE (new): A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than one hundred and twenty (120) degrees. Vehicular access to a building site on the lot shall be exclusively through the frontage of the lot, unless a special permit is granted by the Planning Board..*

**HOME OCCUPATION (old):** A business conducted within a dwelling by a resident thereof as a use accessory thereto, involving no undue traffic or noise. For the purpose of this By-law, home occupation does not include gift shop, antique shop, art gallery or similar retail establishment.

*HOME BUSINESS (new): An occupation, business, trade, service or profession which is conducted as an accessory use incidental to and conducted within a dwelling unit or in a building or other structure accessory thereto, by a resident thereof. The following business are specifically excluded from the definition of a home occupation: auto repair, commercial kennel [list others]*

*JUNK: Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall be considered junk.*

*KENNEL, COMMERCIAL: A commercial establishment in which more than three (3) dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold.*

**LOT :** A clearly defined parcel of land of at least sufficient size to meet minimum requirements for area, frontage, yards and other open spaces under this By-law.

**MOBILE HOME :** A vehicular portable completely enclosed structure built on a permanent chassis, designed as dwelling unit to be transported after fabrication on its own wheels. For the purpose of this By-law, the term “mobile home” includes trailers incorporating the characteristics of mobile homes as herein defined.

**MUNICIPAL USE :** Any use of land in accordance with the General Laws governing municipal powers and functions including participation in regional uses.

*RETAIL: A facility selling goods but not specifically listed in the Table of Use Regulations.*

*SERVICE ESTABLISHMENT: A facility providing personal or general services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, appliance repair, shoe repair, furniture upholstery, and the like.*

*SIGN: Any device designed to inform or attract the attention of persons not on the premises on which the device is located. Any building surfaces other than windows which are internally illuminated or decorated with gaseous tube or other lights are considered “signs.” The following, however, shall not be considered signs within the context of this ordinance:*

- (a) Flags and insignia of any government except when displayed in connection with commercial promotion.*
- (b) Legal notices, or informational devices erected or required by public agencies.*
- (c) Temporary devices erected for a charitable or religious cause, provided they are removed within seven (7) days of erection.*
- (d) Temporary displays inside windows, covering not more [than] thirty (30) percent of window area, illuminated by building illumination only.*
- (e) Standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline.*
- (f) Integral decorative or architectural features of a building, except letters, trademarks, moving parts, or parts internally illuminated or decorated with gaseous tube or other lights.*
- (g) Devices identifying a building as distinct from one (1) or more of its occupants, such device being carved into or attached in such a way as to be an integral part of the building, not illuminated separate from building illumination, without color contrasting with sign background, and not exceeding four (4) square feet in area.*
- (h) Address identification through numerals or letters not exceeding three (3) inches in height.*

**SITE PLAN :** A plan indicating, but not limited to the following: the location of all existing and proposed buildings, structures, access roads, driveways, parking areas and all proposed site improvements.

**SPECIAL PERMIT GRANTING AUTHORITY :** Either

(1) the Board of Selectmen, or

(2) the Zoning Board of Appeals, or

(3) the Planning Board, whichever is empowered by these By-laws to grant a special permit for a particular use or purpose, shall for that use or purpose be deemed the Special Permit Granting Authority.

**STREET** : A public way or a way which the clerk of the town certifies is maintained and used as a public way, a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or a way in existence when the subdivision control law became effective in the town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**ZONING BOARD OF APPEALS** : The Board as provided in Section 10.0.

## **SECTION 3.0 ESTABLISHMENT OF DISTRICTS**

**3.1 DISTRICTS.** For the purpose of this By-law, the Town is hereby divided into the following districts:

Residential Agricultural District (RA)

Jug End Residential District (JE)

**3.2 OVERLAY DISTRICTS.** In addition, there are several overlay districts, as set forth in Section 9.0.

**3.3 ZONING MAP.** The boundaries of each of the districts are hereby established as shown on the map entitled Zoning Map of the Town of Egremont, [date] as or hereafter amended, which map is made a part of this By-law.

## SECTION 4.0: USE REGULATIONS

**4.1 PRINCIPAL USES.** Except as provided in this By-law or by statute, no building or structure shall be erected, and no building, structure or land or part thereof shall be used for any purpose or in any manner other than one or more of the uses hereinafter set forth. Uses not expressly allowed are prohibited.

**4.2 TABLE OF PRINCIPAL AND ACCESSORY USE REGULATIONS.** See Appendix A.  
Symbols used in the Table shall mean the following :

YES	-	Use permitted by right.
BA	-	Use which may be authorized by special permit from the Board of Appeals in accordance with the provisions of Section 10.3, herein.
PB	-	Use which may be authorized by special permit from the Planning Board in accordance with the provisions of Section 10.3, herein.
BOS	-	Use which may be authorized by special permit from the board of selectmen in accordance with the provisions of Section 10.3, herein.
NO	-	Specifically excluded or prohibited use.

### 4.3 ACCESSORY USES

**4.3.1 Residential Accessory Uses.** *The following accessory uses are specifically permitted as of right or by special permit incidental to a premises used for residential purposes:*

*1. Boarders in Single-Family Dwelling. The renting of rooms and/or furnishing of board to not more than four persons in a single-family dwelling by the owner/occupant thereof shall be a permitted accessory use. The renting of rooms and/or furnishing of board to more than four persons in a single-family dwelling shall be deemed a boarding house subject to the provisions of the Table of Use Regulations.*

*2. Accessory Scientific Uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Planning Board, provided that the Board finds that the proposed use does not substantially derogate from the public good.*

*3. Family Day Care Homes. Small family day care homes, are allowed as an accessory use as of right in all districts. Large family day care homes are allowed in all districts only upon the issuance of a special permit by the Planning Board.*



4. *Contractor's yard for the storage of building materials, equipment; provided, however, that such use may be located on a parcel larger than 2 acres as of right, or by special permit from the Planning Board on a smaller parcel.*

5. *Storage of commercial landscaping equipment, materials, supplies; provided, however, that such use may be located on a parcel larger than 2 acres as of right, or by special permit from the Planning Board on a smaller parcel.*

6. *The overnight parking of commercial vehicles owned or operated by a resident of the premises, subject to the following limitations:*

- a. *one or more commercial vehicle less than 15,000 gvw are allowed as of right;*
  - b. *one commercial vehicle of more than 15,000 gvw but less than 35,000 gvw is also allowed as of right;*
  - c. *more than one commercial vehicle of more than 15,000 gvw but less than 35,000 gvw is allowed by special permit from the Planning Board;*
  - d. *any commercial vehicle larger than 35,000 gvw is allowed by special permit from the Planning Board.*
7. The display and sale by a resident of the premises at a roadside stand or otherwise, of natural products the major portion of which are produced on the premises.
8. Home businesses, as regulated in Section 4.4.

**4.3.2 Nonresidential Accessory Uses.** Any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 10.4, shall also require site plan review and approval. The following accessory uses are specifically authorized:

1. **Accessory Scientific Uses.** Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Planning Board, provided that the Board finds that the proposed use does not substantially derogate from the public good.

**4.3.3 Prohibited Accessory Uses.** The following accessory uses are prohibited:

1. **Storage of Unregistered Motor Vehicles.** Not more than one (1) unregistered motor

vehicle or trailer or major part(s) thereof, except for farm vehicles, shall remain ungaraged upon any premises at any time unless under a Class 1 or Class 2 license for sale of motor vehicles. No unregistered motor vehicle may be stored or maintained upon any premises within fifty (50) feet from a street, public way or way laid out on a recorded plan.

2. Residence Districts. In the Residence Districts, the following accessory uses are prohibited:

- a. Commercial kennels;
- b. Commercial auto repair or service.

#### **4.4 HOME BUSINESSES**

**4.4.1 Home Business - As of Right.** A home business may be allowed as of right, provided that it:

1. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;
2. is clearly incidental and secondary to the use of the premises for residential purposes;
3. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
4. does not utilize exterior storage of material or equipment (including the parking of commercial vehicles);
5. does not exhibit any exterior indication of its presence or any variation from residential appearance;
6. does not produce any customer, pupil, client, or delivery trips to the occupation site and has no nonresident employees;
7. is registered as a business with the Town Clerk.

**4.4.2 Home Business - By Special Permit.** A home business may be allowed by special permit issued by the Planning Board, provided that it:

1. fully complies with Sections 4.4.1.2, 4.4.1.3, 4.4.1.4, and 4.4.1.7, above.
2. is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than two additional employees; where employees leave vehicles on the premises while conducting business elsewhere, they shall be counted as nonresident employees.
3. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate;

4. not more than one home business may be conducted out of dwelling; in no event shall the number of nonresident employees exceed two in the aggregate;
5. a special permit for such use is granted by the Planning Board, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer or other vehicle trips. Such special permit shall be limited to five years, or the transfer of the property, whichever first occurs.

#### **4.5 NONCONFORMING USES AND STRUCTURES.**

**4.5.1 Applicability.** *This Zoning By-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning by-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.*

**4.5.2 Nonconforming Uses.** *The Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:*

1. *Change or substantial extension of the use;*
2. *Change from one nonconforming use to another, less detrimental, nonconforming use.*

**4.5.3 Nonconforming Structures.** *The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:*

1. *Reconstructed, extended or structurally changed;*
2. *Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;*

**4.5.4 Variance Required.** *The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity shall require a variance; provided, however, that the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a special permit from the Board of Appeals.*

**4.5.5 Nonconforming Single and Two Family Residential Structures.** *Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed*

*upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:*

- 1. alteration to a structure located on a lot with insufficient area, which complies with all current setback, yard, building coverage, and building height requirements;*
- 2. alteration to a structure located on a lot with insufficient frontage, which complies with all current setback, yard, building coverage, and building height requirements;*
- 3. alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements;*
- 4. alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure.*

*In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.*

**4.5.6 Abandonment or Non-Use.** *A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law.*

**4.5.7 Reconstruction after Catastrophe or Demolition.** *A nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:*

- 1. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.*
- 2. Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in volume or area as the original nonconforming structure, and shall meet all applicable requirements for yards, setback, and height.*
- 3. In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition. The Board shall not grant such special permit unless the proposed reconstruction is determined to be compatible in style and scale with the existing neighborhood.*

**4.5.8 Reversion to Nonconformity.** *No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.*

## **SECTION 5.0 DIMENSIONAL REGULATIONS**

### **5.1 GENERAL REGULATIONS.**

**5.1.1 One Structure per Lot.** Not more than one principal dwelling or building shall be located on a lot, unless otherwise authorized herein.

**5.1.2 Change of Lot.** No lot, or any building or structure thereon, shall be changed in size so as to violate area, frontage, setback, yard or any other requirements of this By-law.

### **5.2 TABLE OF DIMENSIONAL REGULATIONS.**

**5.2.1 General.** Any building or structure used for dwelling purposes or housing a principal permitted use, shall be so located on a lot as to meet the requirements of the Table of Dimensional Regulations, except as specifically otherwise provided in this By-law.

### **5.2.2 Table of Dimensional Regulations.** See Appendix B.

### **5.2.3 Notes to Table of Dimensional Regulations.**

1. The “front yard” shall be measured from the *front lot line* where a plan of the way is on file with the Registry of Deeds, or in the absence of such plan, the front set-back shall be a minimum of sixty-five (65) feet from the center line of the traveled portion of the way.
2. The “maximum height” restrictions do not apply to agricultural buildings or structures, spires, chimneys, antennae or other appurtenances usually placed above roof level and *not considered “habitable space” by the State Building Code.*
3. The “minimum lot area” as applied to a multi-family dwelling shall be construed to require 2.5 acres for the first three (3) dwelling units plus one half (0.5) acre of usable land for each additional dwelling unit.
4. No commercial building, structure, parking areas or driveway providing access to or from a public way for such use, shall be located within fifty (50) feet of any side or rear property line, except where a special permit is granted by the Planning Board in cases where strict compliance with this requirement may cause unnecessary hardship without substantial detriment to public safety.

### **5.4 DIMENSIONAL REGULATIONS FOR ACCESSORY STRUCTURES.**

**5.4.1 Accessory Structures.** *An accessory structure shall comply with the provisions of Section 5.2, Table of Dimensional Regulations.*

**5.4.2 Front Yard.** *No accessory structure shall be placed in a front yard.*

### **5.5 SPECIAL DIMENSIONAL REGULATIONS**

**5.5.1 Frontage on Private Way.** A private street approved by the Planning Board under the Subdivision Control Law may provide frontage only for the lots which are contained within the approved subdivision.

**5.5.2 Frontage in Adjacent Town.** *No lot shall be built upon unless the required frontage is contained wholly within the Town of Egremont.*

**5.5.3 Corner Lots.** *A lot with frontage on two streets shall have the required minimum frontage on one of such streets, without adding the frontage on the other.*

## **SECTION 6.0: GENERAL REGULATIONS**

### **6.1 SIGNS**

**6.1.1 Permit Required.** No sign or advertising device shall be erected or placed in public view within Town limits without a permit from the Board of Selectmen.

1. Descriptive residential signs or signs pertaining to the use, sale or rental of a dwelling do not require a permit, provided that:

- a. The sign is placed on property by a resident owner.

- b. Each such sign does not exceed two (2) square feet in area.

**6.1.2 Types of Permitted Signs.** The following types may be granted a permit by the Board of Selectmen:

1. Directional signs to commercial, manufacturing, agricultural, recreational, educational or religious establishments within the Town provided that such signs shall not exceed five (5) square feet in the area.

2. One (1) sign, not exceeding six (6) square feet in area, for a permitted accessory use on the same premises.

3. On other than residential premises, signs shall be limited to the name of the firm or goods or services available, saleable, or produced on the premises.

**6.1.3 Area and Number of Signs.**

1. There shall not be more than two (2) signs or advertising per business, excepting those which are attached to and are part of the architectural design of a building or structure including a gas pump.

2. The total area of all signs and/or advertising devices shall not exceed twenty (20) square feet per business nor shall any sign or device project above the eaves or parapet wall of any building to which it is affixed.

**6.1.4 Temporary Signs.** Signs for special occasions not permitted above may be allowed upon application to the Board of Selectmen for a permit not to extend beyond a three (3) month period and upon such terms and conditions as the Board shall stipulate.

**6.1.5 Nonconforming Signs.** Any nonconforming sign in use at the time of adoption of this By-law may be continued and, if damaged or destroyed by fire or other unavoidable cause, may be restored to Its former condition.

**6.1.6 Prohibited Signs.** In no case shall permits be granted for the following:

1. Signs or other advertising devices illuminated by other than shaded or indirect white incandescent lights.

2. Signs, banners, or other advertising devices which move, flash or reflect or which are designed to attract the eye by intermittent or repeated motion or illumination.

3. Signs or lights, which because of their placement or direction and intensity of illumina-

tion, constitute a hazard to traffic.

**6.1.7 Sign Removal.** Any sign which has been abandoned or advertises any product, business or activity which is no longer sold or carried on, must be removed within thirty (30) days by the owner of the premises after notice to that effect from the Board of Selectmen.



## **SECTION 7.0: SPECIAL REGULATIONS**

### **7.1 JUNK MATERIAL**

**7.1.1 Purpose.** This section is intended to maintain a spirit of pride within all citizens of the Town of Egremont and to promote public health and safety.

**7.1.2 Applicability.** Properties shall be kept in such a manner so as not to intrude upon the respect which others may have for their community, whether they are owners, or tenants or visitors. Junk should not be allowed to accumulate where it would be visible or create an issue in the Town.

**7.1.3 Screening.** If a person desires to accumulate materials that have value for parts or for restoration, those materials should be stored in an inconspicuous part of their property or screened with a structure at least six (6) feet in height or with a living evergreen hedge at least four (4) feet in height at the time it is planted.

**7.1.4 Exemption.** The above provision does not apply to persons licensed by Chapter 140, Section 57 of the General Laws.

### **7.2 TRAVEL TRAILERS AND MOBILE HOMES**

**7.2.1 General.** There shall be no other trailer parks or trailer camps established in the Town of Egremont other than those in actual operation and existence at the time of adopting the By-law.

**7.2.2 Temporary Special Permit.** A travel trailer or mobile home may be permitted by special permit from the Board of Selectmen only for temporary living quarters for the owner of the premises on which it is located for one (1) year provided such owner is in the process of constructing a dwelling for his own occupancy and further provided that such travel trailer or mobile home, and the dwelling being constructed, are in conformity with the sanitary code of the Commonwealth. Such special permit may be extended if the work on the dwelling is proceeding in good faith.

**7.2.3 Nonconforming Trailers.** A travel trailer or mobile home, located and occupied prior to the adoption of this By-law may continue to be used provided a certificate from the Board of Health is submitted to the Board of Selectmen stating compliance with the Sanitary Code of the Commonwealth.

1. Such travel trailer or mobile home may be replaced by another on the same premises and under the same conditions.
2. Nothing in this section, however, shall apply to unused and unoccupied trailers or mobile homes for which a motor vehicle registration is, or has been, in effect within the past twelve (12) months when the trailer or mobile home is parked on the premises of a dwelling and owned by an occupant of the dwelling.

### **7.3 EARTH REMOVAL REGULATIONS**

**7.3.1. Special Permit Required.** Removal of earth material for commercial purposes including

loam, sand, gravel, or stone, may be authorized with a special permit from the Board of Selectmen subject to the following requirements.

**7.3.2 Application.** An application for a special permit under this section must be accompanied by a plan prepared by a registered land surveyor or professional engineer, which shall show all structures, property lines, vegetative cover, presence of natural waterways, wet areas, flood plains, groundwater recharge areas, and topographic lines at five (5) foot intervals or less carried one hundred (100) feet beyond the limits of the proposed excavation.

**7.3.3 Buffer.** No excavation, processing, loading or other operations, structures or facilities shall be closer than fifty (50) feet of any property line, except if otherwise authorized by special permit.

**7.3.4 Rehabilitation.** No permit shall be issued under this section until a plan for rehabilitation of the land, showing existing and proposed final contours, and the time schedule for completing the operation and restoring the land for its ultimate reuse, has been submitted to and approved by the Board of Selectmen.

**7.4.5 Exemption.** The Board of Selectmen is authorized to exempt earth removal operations consisting of less than one hundred (100) cubic yards within a twelve (12) month period from any or all of the conditions and requirements of this Section.

## **7.5 DRIVEWAY REGULATIONS [Proposed]**

*7.5.1. General. For the purpose of promoting the safety of the residents of the Town, an application for a building permit for a residential structure shall include a plan, at a scale of 1" = 100 ft., showing the driveway serving the premises, and showing existing and proposed topography at 10 ft. or 3 meter contour intervals. All driveways shall be constructed in a manner ensuring reasonable and safe access from the public way serving the premises to within a distance of 100 feet or less from the building site of the residential structure on the premises, for all vehicles, including, but not limited to, emergency, fire, and police vehicles.*

*The Building Inspector shall not issue a building permit for the principal structure on the premises unless all of the following conditions have been met:*

*7.5.2 Location. Wherever possible, a driveway shall not be located within twenty (20) feet of any side or rear lot line without written approval by the appropriate abutter(s).*

*7.5.3 Maximum Distance. The distance of any driveway measured from the street line to the point where the principal building is proposed shall not exceed a distance of five hundred (500) feet, unless the Planning Board grants a special permit after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.*

*7.5.4 Grade. The grade of each driveway where it intersects with the public way shall not exceed ten percent (10%) for a distance of 100 feet from the travel surface of the public way unless the Planning Board shall grant a special permit after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.*

*7.5.5 Access. Driveways serving the premises shall provide access through the required frontage of the serviced lot, except in the case of a “common driveway” under Section 7.5.6, herein.*

*7.5.6 Common Driveways. Common driveways serving not more than two (2) lots may be allowed on special permit by the Planning Board. A common driveway must satisfy all of the conditions in this Section, as well as all of the following conditions:*

- 1. The centerline intersection with the street centerline shall not be less than 45 degrees;*
- 2. A minimum cleared width of 12 feet shall be maintained over its entire length;*
- 3. A minimum roadway surface of 4 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown shall be installed;*
- 4. The driveway shall be located entirely within the boundaries of the lots being served by the driveway;*
- 5. Proposed documents shall be submitted to the Planning Board demonstrating that, through easements, restrictive covenants, or other appropriate legal devices, the maintenance, repair, snow removal, and liability for the common driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest.*

## SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS.

### 8.1 MULTIFAMILY DWELLINGS

**8.1.1 General.** The following conditions shall apply to all multifamily dwellings:

1. The lot shall be sufficient in size so as to provide suitable off-street parking with adequate disposal of storm water, able in the judgement of the Selectmen to accommodate parked vehicles for maximum use of the proposed facilities.
2. No multifamily dwelling shall contain more than six (6) dwelling units or exceed two and one half (2.5) stories in height.
3. Only one (1) multifamily dwelling shall be placed on the lot.

### 8.2 REAR LOTS (OLD)

*I interpret the existing by-law to require a fee (ownership) interest in a fifty foot strip at the street. I know of no community which has made an easement into legal frontage. Nor should you.*

**8.2.1 General.** *Land more than two hundred and fifty (250) feet from an approved street may be reached by a corridor not less than fifty (50) feet wide and consisting of no less than one (1) acre. Such land shall be restricted to one (1) single family dwelling. Nothing herein shall be construed to change the requirements otherwise contained in this By-law relative to construction on such land.*

**8.2.2 Limit.** *No corridor referred to in Section 8.2.1 shall be linked at any point with another corridor leading to a different parcel or otherwise so used as to circumvent the purposes of the Subdivision Control Laws of the state.*

**8.2.3 Definition.** *For the purposes of this Section 8.2, the term “corridor” shall mean a strip of land held in fee not less than fifty feet in width, with fifty feet of frontage on a street, and not less than one acre within said strip.*

*[This area requirement makes little sense, because 50' x 250' = 12,500 square feet, well short of one acre. It's hard to figure the intent of Town Meeting here. The one acre requirement may refer to the acreage of the entire lot, but this allows development 250 feet from the road on a very reduced parcel of only 3/4 acre. Is that your intent? Most towns want the following:]*

### 8.2 REAR LOTS [Proposed].

**8.2.1 General.** *Individual lots need not have the required amount of street frontage, provided that all of the following conditions can be met for each individual lot lacking such frontage.*

**8.2.2 Area.** *The area of said lot is at least **double** the minimum area required.*

**8.2.3 Building Line.** *A building line is designated on the plan, and the width of the lot at that line*

*equals or exceeds the number of feet normally required for lot frontage.*

**8.2.4 Lot Width.** *Lot width is at no point less than 50 feet, and lot frontage is not less than 50 feet. Frontage shall meet all of the requirements contained in the definition for “frontage” herein.*

**8.2.5 Limit.** *Not more than one (1) rear lot shall be created from a property, or a set of contiguous properties held in common ownership as of [date of Town Meeting]. Documentation to this effect shall be submitted to the Building Inspector. The Building Inspector shall not issue a building permit for any rear lot without first consulting with the Planning Board to verify compliance with this provision.*

**8.2.6 Relation to Front Lot.** *At the time of the creation of the rear lot, it shall be held in common and contiguous ownership with the front lot.*

**8.2.7. Rear and Side Yard.** *The principal structure shall be located on the lot with rear and side yards equal to or in excess of those required in the district.*

**8.2.8 Setback from Street.** *The single family dwelling located on the rear lot must be set back at least 300 feet from the street providing frontage.*

**8.2.9 Common Driveway.** *Access to a rear lot shall be via a common driveway as set forth in Section 7.5, herein.*

### **8.3 ACCESSORY APARTMENTS**

**8.3.1 Purpose.** *For the purpose of (a) providing small additional dwelling units to rent without adding to the number of buildings in the Town, or substantially altering the appearance of the Town, (b) providing alternative housing options for elder residents, and (c) enabling owners of single family dwellings larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership, the Planning Board may grant a special permit in accordance with the following requirements.*

**8.3.2 Procedure.** *Accessory apartments may be allowed on special permit from the Planning Board, in accordance with Section 10.3, and provided that each of the following additional criteria are met.*

#### **8.3.3 Conditions.**

- 1. A plot plan of the existing dwelling unit and proposed accessory apartment shall be submitted to the Planning Board, showing the location of the building on the lot, proposed accessory apartment, location of any septic system and required parking. A mortgage inspection survey shall be sufficient to meet this requirement;*
- 2. An affidavit shall be provided stating that one of the two dwelling units shall be occupied by the owner of the property, except for bona fide temporary absence;*

*3. Not more than one accessory apartment may be established on a lot. The accessory apartment shall not exceed 800 sq. ft. in floor space and shall be located in the principal residential structure on the premises;*

*4. The external appearance of the structure in which the accessory apartment is to be located shall not be significantly altered from the appearance of a single-family structure.*

*5. Sufficient and appropriate space for at least one (1) additional parking space shall be constructed by the owner to serve the accessory apartment. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway.*

**8.3.4 Decision.** *Special permits for an accessory apartment may be granted by the Planning Board upon a finding that the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the lot is located and after consideration of the factors specified in Section 10.3 of this Zoning By-Law, governing special permits.*

## **8.4 OPEN SPACE DEVELOPMENT**

**8.4.1 Applicability.** Upon the grant of a special permit by the Planning Board, Open Space Development may be authorized in the Jug End Residential District, subject to the following provisions. The total number of dwelling units

### **8.4.2 Minimum Tract Area; Number of Lots.**

1. The area of the tract shown on the plan shall be at least one thousand (1000) acres all contained in the Jug End Residential District, and shall be at least equal in area to the land area required by this By-law for the total number of units contemplated in the development.
2. The number of the dwelling units allowed on a Special Permit shall be computed as the number of buildable acres multiplied by 0.7 up to a maximum of two hundred (200) units.

### **8.4.3 Dimensional Requirements.**

1. All lots for single family homes shall contain at least 25,000 square feet. The average area of all lots shall be one acre. Not less than 40% of the lots shall contain less than the required average.
2. All lots for multifamily dwellings shall contain at least 30,000 square feet for the first dwelling unit, and 10,000 square feet for each additional dwelling unit. The average area of all lots shall be one acre for the first dwelling unit, and 10,000 square feet for each additional dwelling unit. Not less than 30% of the lots shall contain less than the required average.
3. All units of one type (e.g. single family or multi-family) will be located in clusters designed to reduce the linear feet of roads and drives and the disruption of the landscape as much as practicable.

4. Each lot shall have a minimum width of at least one hundred (100) feet, such width to be measured in a line which is the shortest distance between those segments of the side lines of the lot which lie between the front and rear setback lines specified in subsection 5, below, and shall have a minimum frontage at the street of eighty (80) feet.
5. Unless approved otherwise on the Definitive Plan, for all structures, setbacks lines shall be as follows:
  - A. The front yard setback shall measure at least fifty (50) feet from the nearest side of the access road to the building line.
  - B. The rear yard setback shall measure at least thirty (30) feet.
  - C. The side yard setbacks shall measure at least twenty-five (25) feet.
6. The distance between principal buildings on a lot shall measure at least fifty (50) feet.
7. There shall be no structures other than fences within the setback lines described herein.

#### **8.4.4 Buffer Strip.**

1. A buffer strip is land, in common ownership, which is in its natural state or, if it is an open area, is landscaped with trees and plants indigenous to the area.
2. There shall be a buffer strip, which shall be part of the common area, of one hundred and fifty (150) feet along all boundaries of abutting property.
3. Between each group of structures serviced by one (1) road and between each different type of housing there shall be a buffer of one hundred (100) feet.
4. Along each stream and wetland as defined by Massachusetts 310 CMR 10.00 there shall be a buffer left in its natural state extending one hundred (100) feet horizontally from the seasonal high water mark and extending at least fifty (50) feet horizontally from the top of the gorge, if any.
5. There shall be a natural buffer strip, which shall be part of the common area, between each group of structures and which buffer strip shall be approved by the Planning Board with the Definitive Plan.

#### **8.4.5 Impervious Surface.**

1. No more than ten (10) percent of the buildable land shall be of an impervious surface.
2. There shall be a minimum and a maximum street length and width, which, in the opinion of the Planning Board, is practical.

#### **8.4.6 Open Space and Common Facilities.**

1. All land shown on a plan for which approval is granted under this Section which is not included in building lots, streets, or easements shall be permanent open space.
2. The permanent open space shall include:
  - A. All land in required buffers.
  - B. Land used in common for passive recreation.
  - C. Such other land as is approved with the plan.
3. The permanent open space shall be suitable as to location, size, shape and condition for active or passive outdoor recreation and equal to at least fifty (50) percent of the gross area shown upon the sketch plan.
  - A. A minimum of three (3) acres plus one (1) acre of such open space per twenty-five (25) dwelling units shall be of land suitable for, and which can be used for active outdoor recreation, including ball fields, playground, swimming pool, tennis courts, and trails, which facilities are to be limited to use by residents of the District, and also a golf course, with membership limited to residents of the Town and use limited to members and their guests.
  - B. The maximum acreage devoted to active recreation shall be limited to forty (40) acres plus any acreage in a golf course.
  - C. The remaining area may be used for passive recreation. nature appreciation, and, if suitable, for common leaching area.
  - D. In connection with active recreation there can be cabanas, tool sheds and similar accessory structures, but not including restaurants, bars, cocktail lounges or function rooms open to the general public, provided that accessory uses and structures shall be limited to:
    1. A pro shop, equipment storage and repair area and retail sale of sporting goods related to active recreation in the District, with a total area not to exceed six hundred (600) square feet.
    2. Storage within an enclosed structure of equipment used in connection with the golf course.
    3. A snack bar, which is limited to use by the invitees of the premises.
  - E. A common stable on the property can be used for boarding and grooming horses owned by invitees of the premises provided that there is at least one (1) acre of grazing land for each horse stabled and further provided that all horses in the District



stabled elsewhere on the property shall have an acre of grazing land, which is not part of the common area.

F. All developed recreation areas, except for trails, shall be below the eleven hundred (1100) foot contour.

4. The manner of the ownership of such permanent open space or of various parcels thereof shall be determined by the applicant and shall be submitted for the Planning Board approval. Provision shall be made by agreement, duly executed in a form suitable for recording by the owner or owners of such permanent open space, that in the event that approval is granted under this Section such permanent open space shall be:

A. Owned by the Town, or a non-profit organization the principal purpose of which is the conservation of open space, or a corporation or Trust owned or to be owned in common by the owners of the building lots or residential units within the development in which the ownership of the permanent open space runs with the title to the lots and is not separately alienable.

B. When not conveyed to the Town, subject to restrictions enforceable by the Town, unlimited as to time or as to ownership, kept in an open or natural state and not be built upon for residential use or developed for parking or roadways, and used only for conservancy in its natural state, grazing and agriculture, walking, horseback riding, and/or bicycle riding, playing fields and courts, and swimming pools, all for use of lot owners of the building lots, or any combination of the foregoing. The restrictive agreement shall be in such form and contain such facts and provisions that, so far as possible under then existing law, the restrictions will not terminate by operation of law.

5. The provisions for ownership and restrictions shall be developed by the applicant after consultation with the Planning Board.

A. Such restrictions shall be for the benefit of and enforceable by the Town, and, if the applicant so requests, shall also be enforceable by the applicant and/or by the owner(s) of the building lots shown on such plan. The applicant may specify, subject to the approval of the Planning Board, that such restrictions be established for the benefit of the Town by a trust enforceable by the Town.

B. The restrictions provided for above shall include an agreement that the streets and recreation facilities not owned by the Town shall be maintained by the nonprofit organization or corporation or trust created in accord with the above provisions and that the permanent open space not owned by the Town shall be maintained in accordance with standards established by the Egremont Conservation Commission and the Planning Board. The Town shall enforce compliance in accord with the provisions of the By-law and in case of noncompliance institute proceedings for the Town to enter upon said land, perform the necessary work and charge the cost thereof against the common owners or association, or finally to institute proceedings for the Town to take the open space.

#### **8.4.7 Dwelling Units.**

1. If there is more than one (1) housing type, e.g., single family, two (2) family or more, no one type shall constitute more than sixty (60) percent or less than twenty (20) percent of the total number of dwelling units.
2. In the event the yield as set forth in Section 8.4.2 is less than two hundred (200) units, there may be additional units up to ten (10) percent of the total units calculated in Section 8.4.2 subject to the following conditions. Any conveyance to the Egremont Housing Authority shall result in the allowance of two (2) additional units for each unit so conveyed; provided, however, that such units shall not be substantially different in appearance or size from the market rate units.

**8.4.8 Access.** Each building shall have access from a street contained within the development and not from an existing public way.

**8.4.9 Utilities.** All utilities shall be installed underground at the time of the initial construction.

#### **8.4.10 Additional Specifications.**

1. Construction above the eleven hundred (1100) foot contour may be approved by the Planning Board only at the time of the Definitive Plan approval and provided that the applicant demonstrates to the Board's satisfaction that the proposed construction shall have no adverse effects on the following:
  - A. Erosion control.
  - B. Drainage.
  - C. Wildlife and Wildlife habitat
  - D. Flora and fauna.
  - E. View lines.
  - F. Water quality.
  - G. The road and driveway grades are safe and adequate.
  - H. The construction is necessary in order to minimize the adverse effects of the development on the environment.
  - I. The visibility of buildings from adjacent properties and other sites in Town shall be minimized.
2. Other provisions of this By-law notwithstanding, no structure contained within the perma-

ment open space shall exceed a height of fifteen (15) feet.

#### **8.4.11 Basic Required Improvements.**

1. The applicant shall design, install and maintain all improvements in accordance with the requirements and procedures, including performance guarantee, as required by the Rules and Regulations Governing the Subdivision of Land in effect at the time of submission of the application for a Special Permit, hereinafter referred to as the Rules and Regulations Governing the Subdivision of Land.
2. All elements of the development shall be installed in a sequence acceptable to the Planning Board submitted in writing as part of the application. Phases shall include complete building lot groups.
3. The specifications of the Rules and Regulations Governing the Subdivision of Land and of this Section shall govern the installation of all roadways, walkways, utilities, and other improvements in the development.

#### **8.4.12 Application.**

1. Any person may submit to the Planning Board an application for approval of a Special Permit for a plan of land containing one thousand (1000) acres or more in the Jug End Residential District in accordance with the provisions of this Section, the Rules and Regulations of the Planning Board for the Conduct of Planning Board Functions, Meetings and Hearings and the Rules and Regulations Governing the Subdivision of Land in effect at the time of submission of the application for a Special Permit, provided that the plan includes all land in the District which is to be developed showing all proposed structures and uses.
2. In addition to all other requirements, the submission shall include the following:
  - A. The location of the proposed development.
  - B. The size of the site in acres.
  - C. The number of the proposed building lots and the size of each in square feet.
  - D. The location, acreage and proposed use of the permanent open space.
  - E. A statement on the disposition or manner of ownership of the proposed open space.
  - F. The use and ownership of adjacent land and the location and use of any buildings within five hundred (500) feet of the boundary of the property.
  - G. A preapplication sketch plan of the entire proposed development properly drawn and conforming to the requirements of the Rules and Regulations Governing the Subdivision of Land for a Preliminary Plan with the following additions:

1. Designation of the lots which are to be used as building lots and the lot or lots to remain as permanent open space.
2. For each building lot, four (4) site lines showing yard setbacks as otherwise required by this By-law within which the entire dwelling, included attached garage, and all accessory structures, if any, must lie.

H. A sketch showing natural features to be altered shall be filed.

I. A sketch shall be filed showing the views and view lines to be retained from each lot.

J. A Site Plan of the entire site at the same scale as the preapplication sketch showing the number, size and location of lots which could be developed as a conventional single family development together with the location and size of streets required to supply access and frontage to the lots shown.

K. A Definitive Plan prepared in accordance with the Rules and Regulations Governing The Subdivision of Land.

L. An overlay to the plans required herein showing all land above the eleven hundred (1100) foot contour, and all land with a slope of fifteen (15) percent or more, and all land that is in wetlands as defined in 310 CMR 10.00.

3. In connection with an application hereunder, the Planning Board shall note the following determinations as a minimum:

A. That the application form referred to herein is property completed.

B. That the plans referred to herein are properly completed.

**8.4.13 Hearings and Review.** The hearings and review required for a Definitive Plan and for a Special Permit may be conducted simultaneously.

**8.4.14 Approval.**

1. The Planning Board, acting as the Special Permit Granting Authority, may approve or deny such application for a Special Permit after conducting a public hearing thereon in accordance with Chapter 40A and Chapter 41 of the General Laws. The Board, where necessary for preserving the public health, safety and welfare, may impose further restrictions upon the tract, or parts thereof, as a condition to granting approval hereunder. The Board may also require that the applicant supply it with such further information or studies as it deems necessary to make a decision under this Section.

2. The Board may approve a Special Permit if it finds after such hearing that:

A. The plan promotes the more efficient use of the land in harmony with its natural features, water courses, scenic points, historic spots, and similar community assets, and with the general intent of the Zoning By-law than would conventional single family developments.

B. The building lots shown thereon comply with the requirements of this Section as to area, number of lots and setbacks, and minimum and average lot area and as to frontage.

C. The provisions for open space complies with the requirements of this Section.

D. Each of such lots contains a house site which is in the opinion of the Board in harmony with the general intent of the Zoning By-law.

E. All other requirements of statute and this By-law are met.

3. Conditions of approval shall include all items permitted under the Rules and Regulations Governing the Subdivision of Land and Chapter 40A, Section 9 of the General Laws and may include among others:

A. Phasing of development.

B. Maintenance of view easements.

C. Year-round fire protection measures for each unit.

D. Period and conditions of leasing of dwelling units.

E. Number of structures or units in a grouping not separated from other structures by intervening open space.

F. The size and architectural style of buildings to assure compatibility with the New England/Berkshire character of the community.

G. Signing.

H. Shape of lots.

I. An agreement to protect and maintain natural vegetation and to prohibit clear cutting of lots.

K. Building location within the site which is designated in accordance with this Section.

L. Security measures.

M. Mitigation of traffic and other impacts of development.

## **SECTION 9.0: SPECIAL DISTRICTS**

### **9.1 FLOOD PLAIN OVERLAY DISTRICT**

**9.1.1 Overlay District.** The Flood Plain District is herein established as an overlay district. The uses allowed in the underlying district are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in floodplains.

**9.1.2 Location.** The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Egremont Flood Insurance Rate Maps (FIRM), and the Flood Boundary and Floodway Maps, dated June 15, 1982, on file with the Town Clerk, Planning Board and Building Inspector. These maps as well as the accompanying Egremont Flood Insurance Study are incorporated herein by reference.

**9.1.3 Development Regulations.** The following requirements apply in the Flood Plain District:

1. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.
2. In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:
  - a.. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
  - b. Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code.

#### **9.1.4 Mobile Homes in Flood Plains.**

1. Within Zone A1-30, all mobile homes shall provide that:
  - a. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level; and
  - b. Adequate surface drainage and access for a hauler are provided; and
  - c. In the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten (10) feet apart, and reinforcement is provided for piers more than six feet above ground level.
2. The placement of mobile homes, except in an existing mobile home park or mobile home

subdivisions, are prohibited in the floodway (or coastal high hazard area or V-zone).

**9.1.5 Subdivision Standards for the Flood Plain District. *[This section should be moved to the Planning Board's Rules and Regs]***

1. All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Flood Plain District established under the Zoning By-law shall be reviewed to assure that:

- a. The proposal is designed consistent with the need to minimize flood damage, and
- b. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage, and
- c. Adequate drainage systems shall be provided to reduce exposure to flood hazards, and
- d. Base flood elevation (the level of the one hundred (100) year flood) data shall be provided for proposals greater than fifty (50) lots or five (5) acres, whichever is the lesser, for that portion within the Flood Plain District.

**9.2 WIRELESS TELECOMMUNICATIONS OVERLAY DISTRICT (WTOD)**

**9.2.1 Purpose.** The Wireless Telecommunications Overlay District (WTOD) is intended to protect the scenic, historic, natural and other resources of the Town of Egremont, while allowing adequate Personal Wireless Services to be developed. The purposes are to:

1. Preserve the character and appearance of the Town while simultaneously allowing Adequate Personal Wireless Services to be developed.
2. Protect the scenic, historic, environmental, and natural or man-made resources of the community.
3. Provide standards and requirements for regulation, placement, construction monitoring, design, modification and removal of Personal Wireless Service Facilities and Towers.
4. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify Personal Wireless Service Facilities and Towers.
5. Preserve property values.
6. Locate Towers so that they do not have negative impacts, such as, but not limited to, visual blight, attractive nuisance, noise and falling objects, on the general safety, welfare and quality of life of the community.

7. Require owners of Personal Wireless Service Facilities and Towers to configure them so as to minimize and mitigate the adverse visual impact of the Facilities and Towers.
8. Require the clustering, sharing and camouflaging of Personal Wireless Service Facilities and Towers.

### **9.2.2 Definitions.**

ACT : The Telecommunications Act of 1996.

ADEQUATE COVERAGE : Coverage is considered to be “adequate” within that area surrounding a Base Station where the predicted (by Radial Plot) or measured (by actual field measurements) median field strength of the transmitted signal for at least 75% of the covered area is greater than -95 dbm. It is acceptable for there to be holes within the area of Adequate Coverage where the signal is less than -95 dbm, as long as the signal regains its strength to greater than -95 dbm further away from the Base Station. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within said holes. The outer boundary of the area of Adequate Coverage, however, is that location past which the signal does not regain a strength of greater than -95 dbm.

ADEQUATE CAPACITY : Capacity is considered to be “adequate” if the Grade of Service is p.05 or better for a worst case day in a preceding month, based on the Erlang B Tables, prior to the date of Application; or as measured using direct traffic measurement of the Personal Wireless Service Facility in question for existing Facilities requesting Major Modification, and where the call blocking is due to frequency contention at the antenna(s).

ANTENNA : A device which is attached to a Tower, or other structure, for transmitting and receiving electromagnetic waves.

BASE STATION : The primary sending and receiving site in a wireless telecommunications network.

CHANNEL : The segment of the radiation spectrum from an Antenna which carries one signal. An Antenna may radiate on many Channels simultaneously.

COMMUNICATION EQUIPMENT SHELTER : A structure located at a Base Station designed principally to enclose equipment used in connection with Personal Wireless Service transmissions.

DBM : Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

EMF : Electromagnetic Frequency Radiation

FACILITY SITE : The location or potential site within a Wireless Telecommunications Overlay District leased by one or more Personal Wireless Service Providers and upon which one or more Personal Wireless Service Facility(s) and required landscaping are located.

FCC : Federal Communications Commission. The Government agency responsible for regulating



telecommunications in the United States.

FEE 96-326 : A Report and Order which sets new national standards for emissions of Radio-Frequency emissions from FCC-regulated transmitters. This Report and Order is now contained within Title 47 Regulations, Section 1, Section 1.1307.

GRADE OF SERVICE : A measure of the percentage of calls which are able to connect to the Base Station, during the busiest hour of the day. Grade of Service is expressed as a number, such as p.05 - which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better Grade of Service.

HERTZ : One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

MAJOR MODIFICATION OF AN EXISTING FACILITY : Any change, or proposed change in power input or output, number of Antennas, change in Antenna type or model, repositioning of Antenna(s), change in number of Channels per Antenna above the maximum number approved under an existing Special Permit. Also any increase, or proposed increase in dimensions of an existing and permitted Tower or other structure designed to support Personal Wireless Service transmission, receiving and relaying antennas and equipment.

MONITORING : The measurement, by the use of instruments in the field, of the radiation from a Site as a whole, or from individual Personal Wireless Service Facilities, Towers, Antennas or Repeaters.

MONITORING PROTOCOL : The testing protocol, initially the Cobbs Protocol, which is to be used to monitor the emissions from existing and new Personal Wireless Service Facilities and Repeaters upon adoption of this Article. The SPGA may, as the technology changes, require, by written regulation, the use of other testing protocols. A copy of the Monitoring Protocol shall be on file with the Board of Selectmen and the Town Clerk.

MONOPOLE : A single self-supporting vertical pole with below grade foundations.

PERSONAL WIRELESS SERVICES : Commercial Mobile Services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communications services (PCS), Specialized Mobile Radio Services, and Paging Services.

PERSONAL WIRELESS SERVICE FACILITY (OR FACILITY) : All equipment (excluding any Repeaters) with which a Personal Wireless Service Provider broadcasts and receives the radio-frequency waves which carry their services and all locations of said equipment or any part thereof. This Facility may be sited on one or more Towers or structure(s) owned and permitted by another owner or entity.

PERSONAL WIRELESS SERVICE FACILITY/TOWER SPECIAL PERMIT (PERSONAL WIRELESS SERVICE FACILITIES/TSP) : The Special Permit required to be obtained in order to install any Tower or Personal Wireless Service Facility or for any Major Modification Of An Existing Facility within the Wireless Telecommunications Overlay District within the Town of Egremont.

**PERSONAL WIRELESS SERVICE PROVIDER :** An entity, licensed by the FCC to provide Personal Wireless Services to individuals or institutions.

**RADIATION PROPAGATION STUDIES OR RADIAL PLOTS :** Computer generated estimates of the radiation emanating from Antennas or Repeaters sited on a specific Tower or structure. The height above mean sea level, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tool for determining whether a site will provide Adequate Coverage for the Personal Wireless Service Facility proposed for that Site.

**REPEATER :** A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive Adequate Coverage directly from a Base Station.

**SPECIAL PERMIT GRANTING AUTHORITY (SPGA) :** The Planning Board shall be the SPGA for this Article.

**TELEPORT :** A multi-user commercial facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmission of data.

**TOWER :** A lattice structure or framework, or Monopole that is designed to support Personal Wireless Service transmission, receiving and relaying antennas and equipment.

**WIRELESS TELECOMMUNICATIONS OVERLAY DISTRICT (WTOD) :** Specific area(s), determined by engineering analysis to contain sites where Adequate Service may be provided to the Town of Egremont, which, at the same time, have the potential of reducing or mitigating negative impacts in accordance with this By-law.

**9.2.3 Description.** The WTOD is defined, delineated and mapped on the Map entitled “Wireless Telecommunications Overlay District (WTOD) of Egremont, Massachusetts, dated October, 1998.”, and incorporated by this reference herein. The WTOD includes the properties listed below, which were included because of their potential to provide technically feasible and accessible locations for the siting of Personal Wireless Service Facilities which can provide adequate services to the Town of Egremont: Catamount Development Corporation Map 8 - Parcel #689 Rte. 23, South Egremont, MA

**9.2.4 Overlay District.** The WTOD is an overlay district mapped over other districts. It modifies and where there is inconsistency, supersedes the regulations of such other districts. Except as so modified or superseded, the regulations of the underlying districts remain in effect.

**9.2.5 Consistency with Federal Law.** These regulations are intended to be consistent with The Telecommunications Act of 1996 in that:

1. They do not prohibit or have the effect of prohibiting the provision of Personal Wireless Services;
2. They are not intended to be used to unreasonably discriminate among providers of functionally equivalent Services;

3. They do not regulate Personal Wireless Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated Services and Facilities comply with the FCC's regulations concerning such emissions.

**9.2.6 Exempt Wireless Telecommunications Uses.** The following wireless telecommunications facilities are exempt from this Section 9.2:

1. Police, fire, ambulance and other emergency dispatch;
2. Local business dispatch;
3. Citizens band radio. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC, are exempt, provided that
  - a. the tower is not used or licensed for any commercial purpose; and
  - b. the tower shall be removed upon loss or termination of said FCC license. No Personal Wireless Service Facility or Repeater shall be considered exempt from this Article for any reason whether or not said Facility or Repeater is proposed to share a Tower or other structure with such exempt uses.

**9.2.7 Provision of Independent Consultants.**

1. Upon submission of an application for any special permit under this Section, the applicant shall pay a review fee determined by the SPGA, in accordance with G.L. c. 44, s. 53G, consisting of reasonable costs to be incurred by the SPGA for the employment of independent consultants. These Consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields:
  - a. telecommunications engineering;
  - b. structural engineering;
  - c. monitoring of electromagnetic fields;
  - d. other relevant fields of experience as determined by the SPGA.
2. The SPGA shall select the independent consultant(s) after consultation with the Board of Selectmen, the Board of Health, and the Conservation Commission, each of which may propose a list of qualified candidates.
3. Upon submission of a complete Application for any Special Permit(s) under this Article, the SPGA shall provide its Independent Consultant(s) with the full Application(s) for their analysis and review.
4. Applicants for any Special Permit(s) under this Article shall grant permission for the Town's Independent Consultant(s), to conduct any necessary site visit(s).

**9.2.8 Prohibition of Teleports.** There shall be no Teleport(s) within the Town of Egremont.

**9.2.9 Special Permit Required.** No Personal Wireless Service Facility, or Tower shall be erected, constructed, or installed or undergo Major Modification without first obtaining a special permit from the SPGA in accordance with the requirements set forth herein.

1. For Personal Wireless Service Facilities or Towers a Personal Wireless Service Facility Special Permit (henceforth PERSONAL WIRELESS SERVICE FACILITIES/TSP) is required. This Special Permit is required for any new Facility/Tower construction (or for Major Modification of an Existing Facility).

**9.2.10 Special Permit Submittals.**

1. Applicant shall provide written documentation of any Facility Site(s) in Egremont, and any sites in abutting towns located within eight miles of any boundary of the Town of Egremont, in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. For each such Facility Site, it shall demonstrate with written documentation that this Facility Site is not already providing, or does not have the potential by adjusting the Site, to provide Adequate Coverage and Adequate Capacity to the Town of Egremont. The documentation shall include, for each Facility Site listed;

- a. the exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds);
- b. ground elevation above mean sea level at the Tower location;
- c. height of Tower or structure;
- d. type, manufacturer and model number of Antennas;
- e. antenna gain;
- f. height of Antennas on Tower or structure;
- g. output frequency;
- h. number of channels;
- i. power input; and
- j. maximum power output per channel.

Potential adjustments to these existing Facility Sites, including changes in Antenna type, orientation, gain, height or power output shall be specified. Radial Plots from each of these Facility Sites, as they exist, and with adjustments as above, shall be provided as part of the Application.

2. Applicant shall demonstrate with written documentation that they have examined all

existing Facility Sites located in Egremont and in any sites in abutting towns located within eight miles of any boundary of the Town of Egremont, in which Applicant has no legal or equitable interest, whether by ownership, leasehold or otherwise to determine whether those existing Facility Sites can be used to provide Adequate Coverage and Adequate Capacity to the Town of Egremont. The documentation shall include, for each existing Facility Site examined:

- a. the exact Tower location (in Longitude and Latitude, to degrees, minutes, seconds);
- b. ground elevation above mean sea level at the Tower location;
- c. height of Tower or structure, and documentation of the capacity of the Tower to hold the applicant's Personal Wireless Service Facilities;
- d. type, manufacturer and model number of proposed Antennas;
- e. proposed Antenna gain;
- f. height of proposed Antennas on Tower or structure;
- g. proposed output frequency;
- h. proposed number of channels;
- i. proposed power input; and
- j. proposed maximum power output per channel.

Radial Plots from each of these existing Facility Sites, configured as documented above, shall be provided as part of the Application.

3. Applicant shall demonstrate with written documentation that they have analyzed the feasibility of Repeaters in conjunction with all existing Facility Sites listed in compliance herewith to provide Adequate Coverage and Adequate Capacity to the Town of Egremont. Radial Plots of all Repeaters considered for use in conjunction with these Facility Sites shall be provided as part of the Application.

4. Copies of all submittals and showings pertaining to: FCC licensing; Environmental Impact Statements; FAA Notice of Construction or Alteration; Aeronautical Studies; and, all data, assumptions and calculations relating to service coverage and power levels regardless of whether categorical exemption from Routine Environmental Evaluation under the FCC rules is claimed.

5. Copies of all information submitted in compliance with requirements of Massachusetts Department of Public Health, 105 CMR 122.000: NON-IONIZING RADIATION LIMITS FOR: THE GENERAL PUBLIC FROM NON-OCCUPATIONAL EXPOSURE TO ELECTROMAGNETIC FIELDS, EMPLOYEES FROM OCCUPATIONAL EXPOSURE TO

ELECTRO-MAGNETIC FIELDS, AND EXPOSURE FROM MICROWAVE OVENS or any revisions thereof as the Department of Public Health may, by written notice, create.

6. The exact legal name, address or principal place of business and phone number of the Applicant. If any Applicant is not a natural person, it shall also give the state under which it was created or organized.
7. The name, title, address and phone number of the person to whom correspondence or communications in regard to the application are to be sent. Notice, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon the Applicant.
8. Name, address, phone number, and written consent to apply for this permit, of the owner of the property on which the proposed Personal Wireless Service Facility and Tower shall be located, or of the owner(s) of the Tower or structure on which the proposed Personal Wireless Service Facility shall be located.
9. The documentation shall include, for each Facility Site listed, the exact Tower or Repeater location (in Longitude and Latitude, to degrees, minutes, seconds) and by street address or Pole number (if applicable), ground elevation above mean sea level at the Tower or Repeater location and proposed height of Tower or structure.
10. Required Plans and engineering plans, prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts. (Note: survey plans shall also be stamped and signed by a Professional Land Surveyor registered in Massachusetts.) Plans shall be on 24" x 36" sheets, on as many sheets as necessary, and at scales which are no smaller (i.e. no less precise) than listed below in Sec. 4.8.8 (C)(8)(a-d). Each plan sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and original seal and signature of the P.E. and other professionals who prepared the plan.

**9.2.11 Plans.** Applicant shall, as part of its application, provide the SPGA with the following plans and maps:

1. Proposed Site Plans: Proposed Facility Site layout, grading and utilities at a scale no smaller than 1" = 40' (1:480 or metric equivalent 1:500) showing the entire vicinity. within a 400' radius of the Tower site with topography drawn with a minimum of 2'(0.6 meter) contour interval. The. Site Plan shall show existing utilities, property lines, existing buildings or structures, stone walls or fence lines, wooded areas, individual trees with diameters greater than 12" within a 200' radius from the base of the proposed Tower (labeled with their current heights). Show the boundary of any wetlands or floodplains or watercourses, and of any bodies of water within 200' from the Tower or any related facilities or access ways or appurtenances. The Site Plan must have been completed, on the ground, by a Professional Land Surveyor within two years prior to the application date.
2. Proposed Tower location and any appurtenances, if any, and any accessory building (Communication Equipment Shelter or other). Indicate property boundaries of the Overlay

District and setback distances to the base(s) of the Tower and to the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements.

3. Proposed spot elevations at the base of the proposed Tower and at the base of any guy wires, and the corners of all appurtenant structures.
4. Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or communication lines, and whether underground or above ground.
5. Limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alteration.
6. Any direct or indirect wetlands alteration proposed per 310 CMR 10.00.
7. Detailed plans for drainage of surface and sub-surface water; plans to control erosion and sedimentation both during construction and as a permanent measure.
8. Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, etc; any exterior lighting or signs.
9. Plans of proposed access driveway or roadway and parking area at the Facility Site. Include grading, drainage, traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.
10. Proposed Tower and Appurtenances, including elevations, sections and details at appropriate scales but no smaller than 1" = 10'.
11. Two cross sections through proposed Tower drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing. Indicate proposed spot elevations at the base of the proposed Tower. Dimension the proposed height of tower above average grade at Tower Base. Indicate the maximum allowable structural height of the Tower after addition of any modular sections. Show all proposed antennas, including their location on the Tower.
12. Details of typical Tower foundation, including cross sections and details. Show all ground attachments, specifications for anchor bolts and other anchoring hardware. iv. Detail proposed exterior finish and camouflage of the Tower.
13. Indicate relative height of the Tower to the tops of surrounding trees as they presently exist.
14. Illustration of the modular structure of the proposed Tower indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands.

15. A Structural Professional Engineer's written description of the proposed Tower structure and its capacity to support additional Antennas or other communications facilities at different heights and the ability of the Tower to be shortened if future communications facilities no longer require the original height.
16. A description of Available Space on the tower, providing illustrations and examples of the type and number of Personal Wireless Service Facilities which could be mounted on the structure.
17. Proposed Communications Equipment Shelter, including floor plans, elevations and cross sections at a scale of no smaller than  $1/4" = 1'$  (1:48) of any proposed appurtenant structure.
18. Representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials.
19. Proposed Equipment Plan, including elevations, sections and details at appropriate scales but no smaller than  $1" = 10'$ .
20. Number of Antennas and Repeaters (if any), as well as the exact locations of all Repeaters (if any) located on a map as well as by degrees, minutes and seconds of Latitude and Longitude.
21. Mounting locations on Tower or structure, including height above ground.
22. Antenna type(s), manufacturer(s), model number(s).
23. For each Antenna, the Antenna gain and Antenna radiation pattern.
24. Number of channels per Antenna, projected and maximum.
25. Power input to the Antenna(s).
26. Power output, in normal use and at maximum output for each Antenna and all Antennas as an aggregate.
27. Output frequency of the Transmitter(s).

**9.2.12 Balloon Test.** Within 35 days of submitting an Application, Applicant shall arrange to by, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height and at the location of the proposed Tower. The dates, (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised, by the Applicant, at 7 and 14 days in advance of the first test date in a newspaper with a general circulation in the Town of Egremont. The Applicant shall inform the SPGA and the Board of Selectmen, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 9:00 am and 5:00 pm of the dates chosen.



### **9.2.13 Standards.**

1. Towers and Personal Wireless Service Facilities shall be located only within Wireless Telecommunications Overlay District(s) within the Town of Egremont. Repeaters may be located within these District(s), but are also allowed in the rest of the Town, provided they meet the requirements set forth herein..
2. Access shall be provided to the Tower or Facility or Repeater Site by a roadway which respects the natural terrain, does not appear as a scar on the landscape and is approved by the SPGA and the Chiefs of all emergency services in the Town to assure emergency access at all times. Consideration shall be given to design which minimizes erosion, construction on unstable soils and on steep slopes, and impacts on wetlands as defined in G.L. c. 131, s. 40 and in 310 CMR 10.00
3. A Special Permit shall not be granted for a Tower to be built on speculation. If Applicant is not simultaneously installing a Personal Wireless Service Facility on the Tower, it shall provide a copy of its existing lease/contract with a Personal Wireless Service Provider. Said Provider shall provide all necessary data to comply with the terms of this Article, as a part of Applicant's application or the Special Permit shall not be granted.
4. Applicant shall provide a written, irrevocable commitment valid for the duration of the existence of the Tower, to rent or lease Available Space for co-location on the Tower at fair market prices and terms, without discrimination to other Personal Wireless Service Providers.
5. Tower(s) and antennas shall minimize, to the extent feasible, adverse visual impacts on the environment. The SAGA may impose reasonable conditions to ensure this result, including, but not limited to, requiring the use of camouflage, painting, lighting standards and screening. All such requirements including, but not limited to camouflaging, painting, lighting standards and screening, shall be maintained by the Special Permit holder such that the visual effect continues to be minimized to the same extent or greater as that required by the Special Permit at the initial installation.
6. There shall be no clearing at a distance in excess of 25 feet in radius from the base of the Tower except where the access drive is located.
7. Fencing: The area around the Tower and Communication Equipment Shelter(s) shall be completely fenced for security within an area no greater than 25 feet in radius from the base of the tower, and to a height of six feet, and gated. Use of razor wire is not permitted.
8. Signs: There shall be no signs, except the following. A sign no greater than two (2) square feet indicating the name of the Personal Wireless Service Facility's owner(s) and a 24 hour emergency telephone number shall be posted adjacent to the entry gate. In addition, No Trespassing or other warning signs may be posted on the fence. All signs shall conform to the sign requirements of this By-law, Sec. 6.2.
9. Communication Equipment Shelters shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. The buildings shall be

used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.

10. New Towers shall be the lesser of

- a. 105 feet (measured from ground level to the highest point on the Tower, or on any attached equipment), or
- b. the minimum height determined by the independent consultant(s) to provide the applicant Adequate Coverage from the Personal Wireless Service Facility(s) proposed for use on the Tower. Any new Tower shall be located as close to any existing Tower as possible.

11. Towers shall be located at least one and one half times their maximum structural height away from and within the outer boundary of any Wireless Telecommunications Overlay District(s).

12. Tower Finish: The SAGA shall have the right to determine the type of construction of the Tower(s) (either monopole or lattice), as well as the type(s) of camouflage, painting, or finish. The SPGA may require Tower(s) to resemble or mimic a native coniferous species of tree to minimize their adverse visual impact.

13. Tower(s) and antennas must be placed to minimize visual impacts, as determined by the SPGA. Whenever possible, Towers shall be placed on the side of a hill rather than the crest, to minimize visual impacts.

14. All network interconnections to and from the telecommunications site and all power to the site shall, where feasible, be installed underground. At the initial construction of the access road to the site, if cable is to be laid underground, sufficient conduit shall be laid to accommodate the maximum possible number of Personal Wireless Service Providers licensed to provide services to the Town of Egremont and surrounding areas. The SPGA shall consult with the Applicant and the SPGA's independent consultant(s) to determine whether the installation of underground utilities is feasible.

15. If primary coverage (greater than 50%) from proposed Personal Wireless Service Facility is outside Egremont, then the permit may be denied unless the Applicant demonstrates to the satisfaction of the SPGA that the Applicant is unable to locate legally within the Town which is primarily receiving service from the proposed Facility.

16. Unless required by the Federal Aviation Administration, no night lighting of Towers, or the Personal Wireless Service Facility, is permitted, except for manually operated emergency lights for use only when operating personnel are on site.

17. No Tower or Personal Wireless Service Facility that would be classified as a hazard to air navigation, as defined by the Federal Aviation regulations (Title 14 CFR) is permitted.

18. No Tower or Personal Wireless Service Facility, with the exception of Repeaters on

existing roadside public utility poles, shall be located within any of the following prohibited areas:

- a. Massachusetts or federally regulated wetland;
- b. A Massachusetts Certified Vernal Pool;
- c. The habitat of any State-listed Rare or Endangered Wildlife or Rare Plant Species;
- d. Within 100' horizontally from any Massachusetts regulated wetland;
- e. Within 200' horizontally of the Outer Riparian Zone of any river or perennial stream;

19. The use of Repeaters to assure Adequate Coverage, or to fill holes within areas of otherwise Adequate Coverage, while minimizing the number of required Towers is permitted and encouraged. An Applicant either at the time of original application for a Special Permit under this Article, or who has received a Personal Wireless Service Facility Special Permit under this Article, may, with at least 30 days written notice to the Planning Board, the Board of Selectmen, Board of Health, Conservation Commission, Building Inspector and Town Clerk, install one or more Repeaters by right, provided the Applicant receives a Building Permit from the Building Inspector. A Building Permit shall not be issued until the Planning Board, after a public meeting, has approved the Site Plan submitted. The Planning Board shall publish written notice of the public meeting date at least 14 days in advance. Applicants shall detail the number, location, power output, and coverage of any proposed Repeaters in their systems and provide engineering data to justify their use. No Repeater shall be located closer than 50' to an existing Dwelling Unit, nor less than 25' or more than 50' above ground.

10. The Planning Board under the requirements of Sec. 4.8.9 (Q) may require the use of screening, painting or camouflage to reduce the visual impacts of Repeaters. Repeaters shall be located so as to have the least possible impact on the views of the residents of the Town of Egremont.

**9.2.15 Special Permit Criteria.** In acting on any Special Permit Application, the SPGA in addition to the findings required by this By-law in Section 10.3, shall, after consultation with the Independent Consultant(s), make all of the applicable findings before granting the Special Permit, as follows:

- 1. That Applicant is proposing to locate its Personal Wireless Service Facility or Tower (other than Repeaters) within a Wireless Telecommunications Overlay District; and
- 2. That Applicant is not able to use Existing Towers/Facility Sites in or around the Town of Egremont, either with or without the use of Repeaters, to provide Adequate Coverage and Adequate Capacity to the Town of Egremont; and
- 3. That proposed Personal Wireless Service Facility/Tower will not have an undue adverse impact on historic resources, scenic views, residential property values, natural or man made resources; and

4. That the Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the Towers and Facilities; and
5. That the proposal shall comply with FCC 96-326 and any and all other applicable FCC regulations, regarding emissions of electromagnetic radiation and that the required Monitoring program is in place and shall be paid for by the Applicant.
6. That any decision by the SPGA to deny an Application for a Special Permit under this Article shall be in conformance with SEC. 332 [47 U.S.C. 332 [47 U.S.C.332](7)(B)(ii),(iii) of the Act, in that it shall be in writing and supported by substantial evidence contained in a written record.

#### **9.2.16 Monitoring and Evaluation of Compliance.**

1. Pre-testing: It shall be a condition of any Special Permit granted under this By-law that, after the granting of a Special Permit and before Applicant's Personal Wireless Service Facilities begin transmission, the applicant shall pay for an Independent Consultant, hired by the Town, to Monitor the background levels of EMF radiation, around the proposed Facility Site and any Repeater locations to be utilized for Applicant's Personal Wireless Service Facilities. The Independent Consultant shall use the Monitoring Protocol. A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the SPGA, the Board of Selectmen, the Board of Health, the Building Inspector and the Town Clerk, in order to determine the Tower and Facility's or Repeater's radio frequency emissions and their compliance with FCC regulations.
2. Initial Test: It shall be a condition of any Special Permit granted under this By-law that the Applicant shall, after the granting of a Special Permit and within 30 days of the date that Applicant's Personal Wireless Service Facility(s) or Repeater(s) begin(s) transmission, pay for an Independent Consultant, chosen and hired by the Town, to Monitor the levels of EMF radiation, around the proposed Facility and Repeater Site(s). The Independent Consultant shall use the Monitoring Protocol. A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the SPGA, the Board of Selectmen, the Board of Health, the Building Inspector and the Town Clerk.
3. Ongoing Monitoring: It shall be a condition of any Special Permit granted under this By-law that, in order to determine ongoing compliance with FCC regulations, after transmission begins, the owner(s) of any Personal Wireless Service Facility(s) or Repeater(s) located on any Facility or Repeater Site shall pay for an Independent Consultant, hired by the Town, to conduct testing and Monitoring of EMF radiation emitted from said Site, and to report results of said Monitoring, as follows:
  - a. There shall be routine annual Monitoring of emissions by the Independent Consultant using actual field measurement of radiation, utilizing the Monitoring Protocol. This Monitoring shall measure levels of EMF radiation from the Facility Site's primary Antennas as well as from Repeater Site(s) (if any). A report of the Monitoring results shall be prepared by the Independent Consultant and submitted to the SPGA, the Board of Selectmen, the Board of Health, the Building Inspector and the Town

Clerk.

b. Any Major Modification of Existing Facility, or the activation of any additional permitted channels, shall be cause for new Monitoring in accordance with Sec. 4.8.12 (B) & (C)(1) above.

4. Excessive Emissions: Should the Monitoring of a Facility or Repeater Site reveal that the Site exceeds the FCC 96-326 standard, or any other applicable FCC standard, then the owner(s) of all Facilities utilizing that Site shall be so notified. The owner(s) shall submit to the SPGA and the Building Inspector a plan for the reduction of emissions to a level that complies with the FCC 96-326 standard and any and all other applicable FCC regulations within 10 business days of notification of non-compliance. That plan shall reduce emissions to the applicable FCC standard within 10 days of initial notification of non-compliance. Failure to accomplish this reduction of emission within 15 business days of initial notification of non-compliance shall be a violation of the Special Permit and be subject to a cessation order and to penalties and fines as specified in Sec. 8.2 of the By-law. Such fines shall be payable by the owner(s) of the Personal Wireless Service Facilities with Antennas on the Facility Site, until compliance is achieved.

5. Structural Inspection: It shall be a condition of the Special Permit that, Tower owner(s) shall pay for an Independent Consultant (a licensed professional structural engineer), chosen and hired by the Town, to conduct inspections of the Tower's structural integrity and safety. Towers shall be inspected every five years. A report of the inspection results shall be prepared by the Independent Consultant and submitted to the SPGA, the Board of Selectmen, the Board of Health, the Building Inspector and the Town Clerk. Any Major Modification of Existing Facility which includes changes to Tower dimensions or antenna numbers or type shall require new structural inspection.

6. Unsafe Structure: Should the inspection of any Tower reveal any structural defect(s) which, in the opinion of the Independent Consultant render(s) that Tower unsafe, the following actions must be taken. Within 10 business days of notification of unsafe structure, the owner(s) of the Tower shall submit a plan to remediate the structural defect(s). This plan shall be initiated within 10 days of the submission of the remediation plan, and completed as soon as reasonably possible. Failure to accomplish this remediation of structural defect(s) within 10 business days of initial notification shall be a violation of the Special Permit and subject to penalties and fines as specified in Sec. 8.2 of the By-law. Such fines shall be payable by the owner(s) of the Tower, until compliance is achieved.

**9.2.17 Removal Requirements.** Any Personal Wireless Service Facility or Repeater which ceases to operate for a period of one year shall be removed. Cease to operate is defined as not performing the normal functions associated with the Personal Wireless Service Facility or Repeater and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the Facility or Repeater Site shall be remediated such that all Personal Wireless Service Facility or Repeater improvements which have ceased to operate are removed. If all Facilities on a Tower have ceased to operate, the Tower shall also be removed, and the Facility or Repeater Site, including any access road(s) built by the Applicant which lead to that Facility or Repeater Site from the main access road, shall be revegetated. If all Facility or Repeater Sites have ceased to operate, the owner

of the last Personal Wireless Service Facility or Repeater to leave the site shall revegetate the access road in its entirety. Existing trees shall only be removed with the written permission of the SPGA, and only if the SPGA determines such removal of trees to be necessary to complete the required removal of Personal Wireless Service Facility(s) or Repeater(s).

#### **9.2.18 Performance Guarantees.**

1. Applicant shall, as a condition of the Special Permit:
  - a. Post an initial cash bond in a reasonable amount determined and approved by the SPGA. This bond shall be in force to cover the costs of the remediation of any damage to the landscape which occurs during the clearing of the Site; and to cover the cost of the removal of the Tower or Facility or Repeater from the Site, and remediation of the landscape, should the Facility or Repeater cease to operate.
  - b. Post a maintenance bond for the access road(s), site(s) and tower(s) in amounts approved by the SPGA.

#### **9.2.19 Fees and Insurance.**

1. Towers, Personal Wireless Service Facilities and Repeaters shall be insured by the owner(s) against damage to persons or property. The owner(s) shall provide a Certificate of Insurance to the Selectmen's Office on an annual basis. The Town of Egremont shall be an additional named insured. Limits for coverage shall be specified by the SPGA as a condition of the Special Permit.
2. A schedule of fees for Personal Wireless Service Facility, Tower and Repeater permitting and renewal, any Monitoring of emissions and inspection of structures, and any other fees shall be established by the SPGA pursuant to G.L. c. 40A, s. 9. This schedule may be amended from time to time.

#### **9.2.20 Permit Expiration and Renewal.**

1. In accordance with Section 10.3, any Special Permit granted under this section shall lapse if the Applicant fails to begin construction in a substantial fashion on the Facility or Tower within a one year period of said grant.
2. All Special Permits granted under this section shall be granted for five years with the SPGA retaining the option, at their discretion, to renew said Special Permit for additional five year period(s), if the SPGA determines that the Tower and Facility so permitted shall have been and shall remain in compliance with all terms and conditions of this By-lawnd of any conditions placed upon the original Special Permit at the time of granting.

### **9.3 JUG END RESIDENTIAL DISTRICT**

**9.3.1 Purpose.** The Jug End Residential District is created for the purpose of increasing residential amenities, municipal economy and environmental protection in the Town by conserving open space, scenic areas, views, waterbodies, water quality and other natural or community assets; preventing

development on extreme topography; promoting efficiency of street and utility layouts; lessening storm runoff, erosion and sedimentation normally associated with more conventional types of residential development; retaining natural drainage courses and wetlands; and in general promoting the health, safety, convenience and welfare of residential area and the Town as a whole; and advancing the purposes of the Zoning By-law of the Town of Egremont.

**9.3.2 Use Regulations.** Only the uses set forth in the Table of Use are authorized in the Jug End Residential District subject to the following conditions:

1. The site shall be buildable land as defined in Section 2.0.
2. Along each stream and wetland as defined by Massachusetts 310 CMR 10.00, there shall be a buffer left in its natural state extending one hundred (100) feet horizontally from the seasonal high water mark and extending at least fifty (50) feet horizontally from the top of the gorge, if any.
3. A garage or maintenance shed may be allowed by special permit provided that the garage or shed does not exceed twenty-five hundred (2500) square feet of floor area for equipment used for maintenance of the common area, such as mowers and plows and such shed or garage shall not be visible from Jug End Road or adjacent properties.
4. Open Space Development, as set forth in Section 8.4.

## **SECTION 10: ADMINISTRATION AND ENFORCEMENT**

### **10.1 ENFORCEMENT**

**10.1.1 Building Inspector.** This By-Law shall be enforced by the Building Inspector appointed by the Board as provided in the State Building Code.

**10.1.2 Compliance Required.** No permit shall be issued by the Building Inspector unless the application for a permit indicates compliance with this By-Law and any other applicable Town by-laws and regulations, the State Sanitary Code and the Board of Health Regulations, the Planning Board's Subdivision Control Regulations, and the Wetlands Protection Act, if applicable. No permit or license shall be granted for a new use of a building, structure or land which use would be in violation of this By-Law.

**10.1.3 Application.** Before any use is permitted or sign erected, the applicant must file a proper application which may be reviewed by the Planning Board or the Board Selectmen to ensure that the use or structure is in compliance with the provisions of this By-Law.

**10.1.4 Construction in Accordance with Permit.** When the Building Inspector or a municipal board grants a permit, special permit, or variance, subsequent construction shall be as set forth in the application and plan approved by the official or board. Any construction which does not comply with such approved plan or application may be deemed a violation of this By-Law and punishable as provided herein.

**10.1.5 Applicable Law.** Construction or operation under a building or special permit shall conform to any subsequent amendment of this By-Law unless the permit is issued before the first publication of the required notice of public hearing by the Planning Board on such amendment, and the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

**10.1.6 Enforcement Requests.** If the Building Inspector is requested in writing to enforce this By-Law against any person allegedly in violation of it and the Building Inspector declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

**10.1.7 Violation.** Whoever shall violate any provision of this By-Law or fails to comply with any of its requirements shall upon conviction thereof be fined not more than three hundred (\$300.00) dollars for each offense. Each day such violation continues shall constitute a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as it deems necessary to prevent or remedy any violation.

**10.1.8 Noncriminal Disposition.** The Town may, by General By-law, provide for the noncriminal



disposition of any zoning violation.

## **10.2 BOARD OF APPEALS**

**10.2.1 Membership.** There shall be a Zoning Board of Appeals consisting of three (3) members and two (2) alternates to be appointed by the Board of Selectmen as provided in G.L. c. 40A, s. 12. The Board shall act within its statutory powers as provided in G.L. c. 40A, s. 14 and on matters within its jurisdiction under this By-Law. The Zoning Board of Appeals, hereinafter referred to as the “Board of Appeals”, shall serve also as the Board of Appeals under the Subdivision Control Law as provided in G.L. c. 41, s. 81Z.

**10.2.2 Powers.** The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-Law. The Board’s powers are as follows:

1. To hear and decide applications for special permits in accordance with the provisions of Section 10.3, or as otherwise specified herein.
2. To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. The Board of Appeals shall not grant use variances.
3. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 7, 8 and 15.
4. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.

**10.2.3 Procedures.** Applications shall be filed in accordance with the rules and regulations of the Board of Appeals. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Board of Appeals.

**10.2.4 Conditions.** Special permits and variances may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit or permit granting authority may deem necessary to serve the purposes of this By-Law.

**10.2.5 Regulations.** The Board of Appeals may adopt rules and regulations for the administration of its powers.

**10.2.6 Fees; Technical Review.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive. The Board of Appeals may engage, at the applicant’s expense, professionals to assist the Board in the technical review of the project. Such technical reviewers may include, but are not limited to, attorneys, civil engineers, landscape architects, architects, and wetlands scientists.

## **10.3 SPECIAL PERMITS.**

**10.3.1 Special Permit Granting Authority.** Unless specifically designated otherwise, the Planning Board shall act as the special permit granting authority.

**10.3.2 Criteria.** Special permits shall be granted by the special permit granting authority only upon its written determination that the proposed use or structure(s) shall not cause substantial detriment to the neighborhood or the Town, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth elsewhere in this By-Law, such determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on Town services, tax base, and employment.

**10.3.3 Procedures.** Applications shall be filed in accordance with the rules and regulations of the special permit granting authority. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.

**10.3.4 Review by Other Boards and Agencies.** The special permit granting authority shall within ten (10) days after receipt of an application for special permit transmit a copy thereof for review to the Board of Health, the Planning Board, the Board of Selectmen, the Conservation Commission, and any other municipal board or agency at its discretion.

1. Any board or agency to which such applications are referred for review shall make such recommendations as they deem appropriate in writing, provided, however, the failure to make recommendations within thirty-five (35) days of receipt by such board or agency of the application for review shall be deemed lack of opposition thereto.

**10.3.5 Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this By-Law.

**10.3.6 Plans.** The special permit granting authority may require the applicant to submit a plan in substantial conformance with the requirements of Section 10.4.5, herein.

### **10.3.7 Lapse**

. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 12 months following the filing of the special permit approval (plus

such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

### **10.3.8 Regulations**

. The special permit granting authority may adopt rules and regulations for the administration of this section.

**10.3.9 Fees; Technical Review.** The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits. The special permit granting authority may engage, at the applicant's expense, professionals to assist the Board in the technical review of the project. Such technical reviewers may include, but are not limited to, attorneys, civil engineers, landscape architects, architects, and wetlands scientists.

## **10.4 SITE PLAN REVIEW.**

**10.4.1 Applicability.** The following types of activities and uses require site plan review by the Planning Board:

1. Any nonresidential or nonagricultural use or structure;
2. Any residential structure with a gross floor area of more than 4,000 square feet.

**10.4.2 Procedures.** Applicants shall submit five (5) copies of the site plan to the Planning Board for review. Within 60 days of the date of the application, the Planning Board shall review the site plan and file a written decision with the Town Clerk. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

**10.4.3 Constructive Approval.** Where sixty days lapse without action by the Planning Board, the site plan shall be deemed constructively approved.

**10.4.4 Pre-Application Meeting.** Applicants are invited to submit a pre-application sketch of the proposed alteration or project to the Planning Board and to discuss the matter at a regular meeting of the Planning Board.

**10.4.5 Preparation of Plans; Contents.** Site plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as may be appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=40'. The contents of the site plan shall be the following:

- a. Locus plan showing the entire alteration or project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Planning Board.

- b. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, and proposed open space areas.
- c. Topographical and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals, the location of wetland and floodplain areas, and proposed stormwater management plans, if applicable.
- d. Architectural elevations of all proposed buildings.
- e. Landscaping plan, showing the limits of work, existing tree lines, and proposed landscaping features or improvements such as screening with size and type of stock for each shrub or tree.

**10.4.6 Waiver of Submittal Requirements.** The Planning Board may, upon written request of the applicant, waive any of the submittal requirements of this Section where the project involves a relatively simple development plan.

**10.4.7 Technical Review.** The Planning Board may engage, at the applicant's expense, professionals to assist the Board in the technical review of the project. Such technical reviewers may include, but are not limited to, attorneys, civil engineers, landscape architects, architects, and wetlands scientists.

**10.4.8 Approval.** Site Plan approval may be granted, with or without conditions, upon determination by the Planning Board that the plan meets the following objectives:

1. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
2. Maximize pedestrian and vehicular safety both on the site and egressing from it;
3. Minimize obstruction of scenic views from publicly accessible locations;
4. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
5. Minimize glare from headlights and lighting intrusion;
6. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.
7. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;
8. Provide adequate access to each structure for fire and service equipment and adequate utilities;

9. Provide stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations.

10. Ensure compliance with the provisions of this Zoning By-law, including the parking, signage, landscaping and environmental performance standards.

**10.4.9 Deviation.** No deviation from an approved site plan shall be permitted without modification thereof by the Planning Board.

**10.4.10 Lapse.** Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

**10.4.11 Regulations; Fees.** The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these site plan guidelines. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

**10.4.12. Appeal.** Any decision of the Planning Board pursuant to this Section 10.4 shall be appealed in accordance with the provisions of G.L. c. 40A, s. 17 to a court of competent jurisdiction.













